

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

APR 17 1996

J. BARON GROSHON

In re:

BY: ASW
Deputy Clerk

DOUGLAS R. HEAFNER f/d/b/a
THE FOOTING COMPANY

Case #95-50071
Chapter 7

Debtor.

JUDGEMENT ENTERED ON APR 17 1996

ORDER DISALLOWING AMENDED EXEMPTIONS

This matter came before the undersigned for hearing on April 11, 1996 upon the Trustee's Objection to the Amended Exemptions filed by the Debtor herein. Appearing for the Debtor was David R. Badger, Esq. and appearing for James T. Ward, Trustee was Mary Catherine Holcomb, Esq. After hearing argument of counsel, the Court finds as follows:

FINDINGS OF FACT

1. The Debtor, Douglas R. Heafner, filed his Voluntary Chapter 7 Petition on February 2, 1995.
2. In his petition he listed ownership of real estate but he claimed no exemption therein either by entireties or otherwise.
3. In March of 1995, the Debtor obtained a divorce from his wife which converted his interest by operation of law in the real estate from an interest in entireties property to a tenancy in common.
4. The Debtor failed to inform either his counsel or the Trustee of the converted status of the real estate.

5. The Trustee thereafter undertook the expense of filing an adversary proceeding against the Debtor's wife to allow the sale of the real estate so that the equity from the Debtor's one-half interest would be available for creditors of his estate.

6. After filing an Answer in the adversary proceeding, Mrs. Heafner filed her own Voluntary Petition for bankruptcy in December of 1995 and the Trustee in Douglas Heafner's estate entered into negotiations with the Trustee of Mrs. Heafner's estate to jointly pursue the sale of the property.

7. The Trustee undertook all of the above actions based on the statements in Mr. Heafner's petition that no interest in the real estate was being claimed and the Trustee relied on those representations in determining whether he should incur the expenses for the actions set out above.

8. Early in January of 1996, the Trustee's of the two (2) estates agreed to list the property for sale jointly for their two (2) estates.

9. On February 13, 1996 the Debtor filed a Motion to Amend his exemptions to claim the \$10,000.00 exemption in net sales proceeds pursuant to N.C.G.S. 1C-§1601(a)(1).

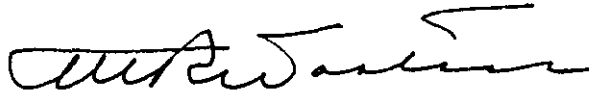
10. The Trustee objected to the Motion to Amended Exemptions on the grounds that the Trustee had undertaken substantial actions and incurred substantial costs based on the information in the original petition and that the Trustee and the estate would be prejudiced by the amendment of the exemptions after this elapsed time.

CONCLUSIONS OF LAW

11. Allowing the Debtor to amend his exemptions a year after filing, on the above stated facts, would constitute substantial prejudice to the estate and to the Trustee.

THEREFORE, IT IS HEREBY ORDERED ADJUDGED AND DECREED that the Trustee's Objection to the Motion to Amend Exemptions is sustained and the amended exemptions are hereby denied.

Dated this the 18th day of April, 1996.



United States Bankruptcy Judge Presiding